the production of a more substantial race unless the individuals to whom the law or agreement is to be applied are educated to the point of supporting it loyally. Without enlightened public support such attempted regulation may easily stimulate evasion of the law and deterioration of morals among those men and women to whom health certificates are denied. This would be a sorry result of a praiseworthy effort.

In the interest of race improvement or regeneration, therefore, we must look primarily to the education of the individual; to education that emphasizes not only the value, but the necessity of social co-operation in every movement that makes effectively for the development of those vigorous, adaptable individuals who are to make the social environment for tomorrow. Until the individual men and women in our cities shall have learned strictly to co-operate among themselves and with institutional agencies to enforce the laws that are designed to protect the youth against the vicious atmosphere of the street and to provide positive stimuli for health of body and mind: until that ideal shall have been realized we shall have to be contented with slow and uncertain progress toward race regeneration through social inheritance. ROBERT H. GAULT.

A WIDESPREAD FORM OF USURY: THE "LOAN SHARK."

By the laity, and pretty generally by lawyers as well, usury as a crime or as a civil injury is looked upon as a matter of historical or literary interest, but its widespread and destructive influence is not generally recognized. In most minds usury is connected with "The Merchant of Venice," and it is generally thought that Shakespeare was caricaturing a vice somewhat antiquated even in his day. This, however, is not so; it flourishes in our great cities and on the continent today with as much, if not greater, destructive force than ever before. In our country, the "loan sharks" are a form of this socially destructive force which should be practically attacked. They have no monopoly, but they are peculiarly offensive in that they fatten upon the small wages of the proletarian. They, therefore, are peculiarly vicious from an individualistic standpoint in that their victims are deprived the necessities of life. In the case of a young man he is prevented from attaining the financial growth of which he would otherwise have been capable, and in the case of an old man his wife and children are made to pay the costs of his victimization. From a social standpoint, "loan sharks" are peculiarly vicious because

they attack that class which is on the borderland between financial success and stability and poverty and instability. That the effect upon society is a large impoverished class with consequently criminal tendencies, needs no proof.

But before taking up the special case of the "loan sharks," it is well to review very briefly the question of interest. Miraglia writes in his book, "Comparative Legal Philosophy" (1): "Interest is profit gained by renting capital. It has been regarded from a biased point of view, and has been held in ill repute from moral and religious prejudices." In other words, the Christian precepts and the mistaken Aristotelian doctrine prevented for a long time a recognition of the legitimacy of interest. But interest should be recognized. Money is economically productive and interest is therefore undeniable. Money is a merchandise, and rent should be paid for its use. Usury exists where the rental is too great, economically. "Usury consists of a debt without a corresponding loan." In the determination of usury, consideration should be given to the value of money as merchandise at that time and of the risk; the risk, of course, being determined by the financial liability of the borrower. From this brief statement of the case it at once clearly appears that usury determined by a maximum of legal interest is philosophically and juridically wrong. In fact, we may add that it has been abrogated in the countries more advanced in juristics. This does not mean, however, that there is no such crime or civil injury as usury.

Stein, in his book on usury, points out that it is of two kinds: simple and seductive. In other words he holds that a contraction of a debt without a corresponding loan, the charging of an excessive rate of interest is simple usury and no crime; whereas usury consisting of a scheme by which a creditor deceives his debtor and repeatedly increases the amount of the debt by use of threats, blackmail, or inducements affecting the hope of repayment, is seductive and a crime. This distinction has been doubted, its opponents alleging that simple usury is practically non-existent, and that all usurers fall sooner or later into the commission of fraud. We are not interested here, however, with the distinction of the two usuries, or even with the question as to the distinction of their criminality.

Usury, of course, can be stopped. It is a question of price. Publicity seems the fairest and surest method to do away with it with the least effect upon financial credit. The law of the maximum, as

(1) Boston, 1912; page 598.

can be seen from the outline of interest which we have given, is apparently illogical, and if enforced would destroy many large businesses where the risk involved is so great as to prevent their serious consideration as a six per centum investment. Only complete and absolute publicity can prevent usury, and this of course affects to a certain extent the economic equilibrium, but with our increasing sense of juristics and the increasing feeling of the unity of society, the time may come when publicity may be adopted. Should such a system be effected and the price paid for money accurately known, competition would soon result in the destruction of usury.

But to come to our particular branch of the subject, one that is practical, we must consider the best way to deal with "loan sharks" at the present time and under existing laws, leaving for the future (though we may express the hope that it will be a very near future) the discussion of the philosophical and juridical reforms of usury laws in general.

To resume, briefly, the *modus operandi* of the "loan sharks." A workingman with no collateral desires ready money and goes to the office of a "loan shark" to borrow $10. He is told at once that they are a substantial company and never lend less than $25, whereupon X, duly impressed by their importance and honesty, borrows $25. He generally borrows it of a company out of the jurisdiction, the man to whom he makes application telling him that he will act as the borrower's agent to effect the loan. This precaution, however, is sometimes omitted. He then is given $24 in cash, $1 being deducted for notary charges, and is made to sign four promissory notes for $9 each and an assignment of his wages to accrue, covering all wages earned in any employment. If he makes his payments of $36 all is well and good, but if he is late in any payment his note is protested at a cost of $1.50 a note. (I have never seen the notary's protest, however, in any case which has come to my notice.) If he fails in payment for any length of time he is told that a copy of his assignment will be served upon his employer, who will hold his wages to the use of the loan company. Frightened by this, the poor man returns to the "loan shark" who tells him that he will help him out by lending him on small terms sufficient money to make up the deficit plus the charges, and thus obtains a larger debt against him. When the loan is as large as the "loan shark" can hope to collect from any accrued wages, the assignment is served upon the workman's employer. In most cases this results in his immediate discharge, the "loan shark" collects his wages, and as much money as has been obtained is

credited to the workman, and he is allowed to work with another employer until some wages have accrued, when another copy of the assignment is served. Thus we see that the effect is to keep the poor man constantly paying to his utmost while the debt with interest and its incidental charges is constantly increasing against him. We may note that the action of the employer in discharging the workman cannot be blamed and is inevitable since a large corporation, for instance, cannot afford to have its pay-roll constantly disturbed.

Under existing law it is very difficult to prevent a "loan shark" from prosecuting his trade. His debtor does not usually consult an attorney until after the assignment has been served, and the debtor is usually so hampered financially that the attorney is hampered in his efforts to aid him. Success, however, has attended the following course: The client swears to an affidavit stating that he will pay the loan company on receipt of his wages and that he will prosecute his case before the next pay-day, upon which most employers will pay him the wages on hand. He immediately tenders the full debt and six per centum to the loan company and proceeds to file a bill in equity alleging usury and the illegality of a general assignment of wages. In my experience the loan company does not defend and the costs of the equity suit, including preliminary and final injunction together with the bond and printing, is a strong deterrent against the loan company's repetition of a refusal to accept the tender. This plan has been successfully worked in Pennsylvania in *Brown vs. Loan Company,* No. 3003, March term, 1911, and *Ruth vs. Loan Company,* No. 5055, March term, 1911, in the Common Pleas No. 1 and No. 4 of Philadelphia county. This seems to be the only practical legal means of fighting them at present, as a prosecution for usury is generally inadequate and impractical. We may add that this remedy is unsatisfactory from many points of view. It does not prevent the "loan shark" from proceeding with his trade and it deprives him of what is properly his due, as a legal rate is not usually commensurate with the risk in the class of loans that he makes. Furthermore, in New York the courts have refused to follow this line of reasoning, and have refused to aid the borrower, holding that there is no essential equity in his action. In many jurisdictions a general assignment of wages is recognized. The dictum of Judge Hare in *Fairgrave vs. Navigation Company,* 2nd Philadelphia, 182, is not favorable to this theory on the grounds of public policy, as is the Supreme Court in *Jermyn vs. Moffitt,* 75 Pennsylvania, 399.

In conclusion we can only repeat what we have already stated, that the present methods of fighting the "loan sharks" are inadequate and unjust, and that new legislation is required before this pest to society can be overcome. The suggestion has been made before, and we thoroughly indorse it, that a system of publicity requiring the recording of such transactions is the only method for overcoming usury. Such a method will overcome it by competition and will not harm the man who desires to make large profits through charging a proper sum for the risk in loans without security. We cannot lay too much emphasis upon the number of companies at present engaged in usurious loans of this kind nor on the resultant social deterrent, nor can we emphasize too greatly the consequent need for radical reform based upon a thorough study of the methods of usury.

JOHN LISLE.

LOCAL SENTIMENT AND LYNCHING IN PENNSYLVANIA.

In a previous article (this journal, January, 1912, p. 669) the writer pointed out a fundamental weakness in our citizenship, namely, disrespect for law. He said: "In homicide cases it is clear that many defendants are acquitted in spite of the fact that evidence of the killing is clear and that the law says the act is murder. They are acquitted because the jury, representing often the sentiment of the commuity, believes that a killing is justifiable in cases where the law says it is not." A review of newspaper comment contained in the *Literary Digest* for May 18, 1912, at p. 1023, seems to bear out the truth of the above remarks. A negro murderer was burned to death by a mob at Coatesville, Pennsylvania, a conservative and aristocratic community. The negro had killed a special policeman. The *Gazette-Times* points out that "the lynching of Walker was not provoked by that crime which results in so many outbreaks in the South. It was entirely lacking in the alleged justification which is pleaded in extenuation of such tragedies in other parts of the country." Nor does it appear that there was any reason to fear that the murderer would not be given proper punishment in a trial by the properly constituted authorities.

Fourteen of the alleged lynchers were indicted. Seven of them were tried. The trials were held at the county seat of Chester county and not at Coatesville. The *Digest* reports that the evidence was generally considered conclusive of guilt, yet the first seven to be tried were found "not guilty." As a result Acting District Attorney Gaw-